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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/759,424

01/12/2001

Manabu Sawasaki

1508.65123

2317

24978

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04/08/2009

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EXAMINER

NGUYEN, DUNG T

ART UNIT

PAPER NUMBER

2871

MAIL DATE

DELIVERY MODE

04/08/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/759,424	SAWASAKI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dung Nguyen	2871	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 March 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23,32-41,57,59-61,63 and 65-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23,32,33,57,60,63 and 68 is/are allowed.
- 6) ☒ Claim(s) 34-41,59,61 and 65-67 is/are rejected.
- 7) ☒ Claim(s) 69 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Applicant's amendment and request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

By the amendment dated 03/03/2009, claims 23, 32-41, 57, 59-61, 63 and 65-69 are now pending in the application.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 34-35, 37-39 and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Rho et al., US 6,057,896.

The above claims are anticipated by Rho et al. figures 3, 13 and accompanying text which discloses a liquid crystal display (LCD) device comprising a transparent substrate (10), a thin film transistor (formed by 20, 71/72), an organic insulating final protection film (100), a pixel electrode (140), wherein the final protection films is interposed between the pixel electrode and the transparent substrate in a first pixel region and not interposed between the pixel electrode and the transparent substrate in a second pixel region (see figure 3/13) as claimed.

3. Claims 59, 61 and 65-67 are rejected under 35 U.S.C. 102(e) as being anticipated by Murouchi, US 6,067,144.

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The above claims are anticipated by Murouchi's figure 3 and accompanying text which discloses an LCD device (11) having a pair of substrates (9, 10), first spacers (4a/4b) and second spacers (5a/5b), a black matrix (2a/2b/2c/2d), wherein a height (h2) of the second spacers is lower than that of the first spacers (height h1)(see figure 3 and col. 3, second paragraph).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 36 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rho et al., US 6,057,896.

Regarding claims 36 and 40, Rho et al. disclose the claimed invention as described above except for an inorganic insulating final protection film. It would have been an obvious to one having ordinary skill in the art at the time the invention was made to employ an insulating inorganic final protection film since the examiner takes Office Notice of the equivalence of an organic insulating film and an inorganic insulating film for their use in the display art and the selection of any of these known equivalents to prevent deterioration of display quality (e.g., electrical short or crosstalk) would be within the level of ordinary skill in the art.

***Allowable Subject Matter***

6. Claims 23, 32-33, 57, 60, 63 and 68 are allowed.

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Claims 69 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Remarks***

The Examiner thanks the Applicant's representative, James K. Folker, for the interview on April 02, 2009. To expedite the prosecution, the Examiner has discussed and requested to cancel the non-allowable claims (as stated above) in order to place the application in condition for allowance; however, the Applicants prefer a formal Office Action. Therefore, this Office Action has been issued.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Nguyen whose telephone number is 571-272-2297. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on 571-272-1787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DN  
04/03/2009

/Dung T. Nguyen/  
Primary Examiner  
Art Unit 2871